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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,055	07/10/2001	Klaus Keite-Telgenbuscher	Beiersdorf 730-WCG	9275

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EXAMINER
BAREFORD, KATHERINE A

ART UNIT	PAPER NUMBER
1762	8

DATE MAILED: 07/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/902,055	KEITE-TELGENBUSCHER ET AL.	
	Examiner	Art Unit	
	Katherine A. Bareford	1762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 July 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *3* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: headings, such as BACKGROUND OF THE INVENTION, BRIEF DESCRIPTION OF THE DRAWINGS, etc. should be provided in the specification where appropriate.

Appropriate correction is required.

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 1, "pastelike" is confusing as to what is required by the material.

Claim 1, line 1, "especially thermoplastics" --- a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of

the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1, line 1 recites the broad recitation "liquid or pastelike substances", and the claim also recites "especially thermoplastics" which is the narrower statement of the range/limitation.

Claim 7, line 2, "in particular a roll" is confusing for the reasons given as to claim 1, line 1 above.

Claim 11, lines 2-3, "preferably a hot-melt adhesive, with particular preference a hot-melt pressure-sensitive adhesive" is confusing for the reasons given as to claim 1, line 1, above.

Claim 12, lines 2-3, "in particular a coating . . . 3 000 g/m^2" is confusing for the reasons given as to claim 1, line 1 above.

Claim 13, lines 2-4, "in particular a coating . . . 2 000 g/m^2" is confusing for the reasons given as to claim 1, line 1 above.

The other dependent claims do not cure the defects do the claims from which they depend.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ludwig (US 5122219) in view of Montalbano (US 6019924).

Ludwig teaches a method of applying liquid or pastelike substances to a backing material. Column 1, lines 5-10 and figure 1. The material can be thermoplastic. Column 1, lines 5-10. The substance is applied using a die to coat at least part of the backing material traveling along the die. Column 3, lines 10-40 and figure 1. The die is provided with heating elements. Column 3,l ines 40-68 and figure 1.

Claim 7: the backing material is guided along an apparatus which produces counterpressure. Figure 1 and column 3, lines 10-40. This apparatus can be a roll. Figure 1 and column 3, lines 10-40.

Claim 8: the substance can be applied by means of the die through a perforated cylinder onto the backing material. Figure 1 and column 3, lines 10-40.

Claim 11: the coating can be a thermoplastic polymer. Column 1, lines 5-10.

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Ludwig teaches all the features of the claims except (1) the transverse ~~being~~ bending of the die based on temperature differences in the die body (claim 1) and (2) the die features (claims 2-6, 9-10).

Montalbano teaches an extrusion die system. Figure 2 and column 4, lines 30-55. The die system is heated, using hot oil or electric heaters, for example. Column 8,lines 55-65. Furthermore, a thermal die bolt actuator system is used to adjust the positioning of the die lips so as to control the die gap. Column 2, lines 15-50. The actuator system bends the die body lip across the width of the die. Figure 2 and column 6, lines 15-50. The bending is induced by temperature differences within the die body. Figure 2 and column 6, lines 15-50. The die is provided with at least two zones that are differently temperature controlled across the width of the die. Column 9, lines 35-55. The heater for the die bolts can be an electric heater. Column 7, lines 30-35, for example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ludwig to provide a thermal actuator system that provides the claimed bending as suggested by Montalbano so as to provide optimum control of the extrudate dimensions from the die, because Ludwig teaches a system of coating by extruding heated coating material from a die, and Montalbano teaches a method of controlling extrudate dimensions when extruding heated coating material from a die. It further would have been obvious that the coating fluid provides part of the temperature control of the various zones, since both references teach heating the dies to provide broad temperature control of the coating material. It further would have been obvious to move the die in its mounts with an expectation of desirable results, since it would be desired to

clean the web and load the substrate in start up procedure. It further would have been obvious that the bending would be controlled proportionate to the amount of the substance applied to the backing roll, since this reflects the die gap width. It further would have been obvious to perform routine experimentation to optimize the processing shear, based on the die gap and coating material selected.

7. Claims 1-7, 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 622 127 A1 (Hereinafter '127) in view of Montalbano (US 6019924).

'127 teaches a method of applying a coating substance to a backing material. Column 2, lines 5-30and figure 2. The material can be a hot-melt adhesive. Column 1, lines 10-15. The substance is applied using a die to coat at least part of the backing material traveling along the die. Column 2, lines 10-30 and figure 2.

Claim 7: the backing material can be guided along an apparatus which produces counterpressure. Figure 2 and column 3, lines 40-55 (if the backing material is considered the substrate 30, then the counterpressure is provided by backing roller 36). This apparatus can be a roll. Figure 2 and column 3, lines 40-55.

Claim 11: the coating can be a hot-melt adhesive. Column 1, lines 10-15.

Claims 12-13: the backing material can be a roll with an abhesive surface. Figure 2 and column 3, line 55 through column 4, line 5 (if the backing material is considered to be application roller 26). The coating on the surface can be a fluorine coating (i.e. TEFLON). Column 3, line 55 through column 4, line 5.

'127 teaches all the features of the claims except (1) the transverse ~~being~~ bending of the die based on temperature differences in the die body (claim 1) and (2) the die features (claims 2-6, 9-13).

Montalbano teaches an extrusion die system. Figure 2 and column 4, lines 30-55. The die system is heated, using hot oil or electric heaters, for example. Column 8,lines 55-65. Furthermore, a thermal die bolt actuator system is used to adjust the positioning of the die lips so as to control the die gap. Column 2, lines 15-50. The actuator system bends the die body lip across the width of the die. Figure 2 and column 6, lines 15-50. The bending is induced by temperature differences within the die body. Figure 2 and column 6, lines 15-50. The die is provided with at least two zones that are differently temperature controlled across the width of the die. Column 9, lines 35-55. The heater for the die bolts can be an electric heater. Column 7, lines 30-35, for example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify '127 to provide a thermal actuator system that provides the claimed bending as suggested by Montalbano so as to provide optimum control of the extrudate dimensions from the die, because '127 teaches a system of coating by extruding heated coating material from a die, and Montalbano teaches a method of controlling extrudate dimensions when extruding heated coating material from a die. It further would have been obvious that the coating fluid provides part of the temperature control of the various zones, since Montalbano teaches heating the dies to provide broad temperature control of the coating material. It further would have been obvious to move the die in its mounts with an expectation of desirable results, since it would be desired to clean the web and load the substrate in start up procedure. It further would have been obvious

that the bending would be controlled proportionate to the amount of the substance applied to the backing roll, since this reflects the die gap width. It further would have been obvious to perform routine experimentation to optimize the processing shear, based on the die gap and coating material selected. It further would have been obvious to perform routine experimentation to optimize the amount of TEFLON coating applied to the applicator roll (backing material), based on the coating used and the substance to be applied.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine A. Bareford whose telephone number is (703) 308-0078. The examiner can normally be reached on M-F(7:00-4:30) with the First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

KATHERINE A. BAREFORD
PRIMARY EXAMINER
GROUP ~~1100~~ 1700